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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,631	10/04/2006	Mauro Barbieri	FR 040040	2051

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
TORRENTE, RICHARD T	
ART UNIT	PAPER NUMBER
2482	
MAIL DATE	DELIVERY MODE
11/04/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,631	BARBIERI ET AL.	
	Examiner	Art Unit	
	RICHARD TORRENTE	2482	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 October 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 October 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-6 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application No. 10/599,611. Although the conflicting claims are not identical, they are not patentably distinct from each other because the current application 10/599,631 discloses all essential elements and processes that are obvious over copending application 10/599,611.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Drawings

3. Figure(s) 4 is objected to as depicting a block diagram without "readily identifiable" descriptors of each block, as required by 37 CFR 1.84(n). Rule 84(n) requires "labeled representations" of graphical symbols, such as blocks; and any that are "not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable." In the case of Figure(s) 4, the blocks are not readily identifiable per se and therefore require the insertion of text that identifies the function of those blocks. That is, each vacant block should be provided with a corresponding label identifying its function or purpose.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 1-5 is/are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent[1] and recent Federal Circuit decisions[2] indicate that a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example, the "determining for each successive block" method is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. The applicant has provided no explicit and deliberate definitions of "determining for each successive block" to limit the steps to the electronic form of the "a detection method".

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[1] *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

[2] *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeannin (US 2003/0123841 A1) in view of Ishikawa et al. (US 5,493,345).

Regarding claim 1, Jeannin discloses a detection method applied to digital coded video data, comprising: providing said digital coded video data available in the form of a video stream comprising consecutive frames divided into macroblocks themselves subdivided into contiguous blocks, said frames including at least I-frames coded independently of any other frame either directly or by a spatial prediction from at least a block formed from previously encoded and reconstructed samples in the same frame, P-frames temporally disposed between said I-frames and predicted from at least a previous I- or P-frame, and B-frames temporally disposed between an I-frame and a P-frame or between two P-frames and bidirectionally predicted from at least two frames between which they are disposed (see MPEG and GOP in ¶ [0018]-[0020]), determining for each successive block of the current frame if it has been coded according to a predetermined intra prediction mode (see ¶ [0028]); collecting similar information for all

the successive blocks of the current frame and delivering statistics related to said predetermined intra prediction mode (see ¶ [0029]); analyzing said statistics for determining the blocks of said current frame which exhibit said intra prediction mode (see ¶ [0005]).

Although Jeannin discloses determining if an image is a monochrome image based on DC coefficient with scene change (see ¶ [0005] and [0028]), it is noted that Jeannin does not disclose wherein the determination is based on the number of blocks of said current frame, and each time said number is greater than a given threshold.

However, Ishikawa, in the same field of endeavor, discloses a detector wherein the determination is based on the number of blocks (see fig. 3) of said current frame, and each time said number is greater than a given threshold (see fig. 4; see column 5, lines 26-60).

Given the teachings as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Ishikawa teachings of determining scene change into Jeannin scene change for determining monochrome image for the benefit of providing an image editing method which can automatically detect a scene change of unknown image information with certainty.

Regarding claim 2, Jeannin further discloses in which the analysis step is provided for processing the statistics of the intra modes and possible additional coding parameters (see fig. 3), and the detecting step is provided for delivering an information

about the images or sub-regions of images that are either monochrome or with a repetitive pattern (see ¶ [0030]-[0033]).

Regarding claim 3, Jeannin further discloses in which information about the location and the duration of said images or sub-images that are either monochrome or with a repetitive pattern is produced and stored in a file (see ¶ [0029]).

Regarding claim 5, the claim(s) recite analogous limitations to claim 1, and is/are therefore rejected on the same premise.

Regarding claim 6, the claim(s) recite analogous limitations to claim 1, and is/are therefore rejected on the same premise.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeannin (US 2003/0123841 A1) in view of Ishikawa et al. (US 5,493,345), and further in view of Friel et al. (US 2005/0111835).

Regarding claim 4, although Jeannin discloses in which the syntax and semantics of the processed video stream are those of a standard (see ¶ [0029]-[0033]), it is noted that Jeannin and Ishikawa do not disclose wherein the standard is a H.264/AVC.

However, Friel, in the same field of endeavor, discloses a coding of black frames wherein the standard is a H.264/AVC (see ¶ [0078]-[0083]; see fig. 2).

Given the teachings as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Friel teachings of H.264 coding into Jeannin and Ishikawa coding for the benefit of maximizing the use of video compression technology within the constraints of a real-time video input and a real-time video output, thereby maximizing the amount of video that may be stored for a given hard-disk size.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHARD TORRENTE whose telephone number is (571) 270-3702. The examiner can normally be reached on M-F: 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Young Lee/
Primary Examiner, Art Unit 2482

/Richard Torrente/
Examiner, Art Unit 2482